

Refugees in Orbit – again!

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Matteo Salvini, Italy's new far-right home secretary, tweeted "Vittoria!" after news broke that the 629 persons stranded aboard the M.S. Aquarius would be forced to proceed to the Spanish city of Valencia rather than being allowed to disembark at much closer ports in Sicily. But for whom was it a "victory"?

Surely not for those seeking asylum who had been stranded at sea for days on an overcrowded search and rescue ship. The ability of ship's crew of 12 had been strained to the breaking point attempting to meet the medical and survival needs of those rescued on Saturday, including persons with serious chemical burns and others requiring urgent orthopaedic surgery, as Italy and Malta bickered like petulant children about which should step in to save lives.



And surely not for international law. The longstanding principle that a shipmaster has a duty to rescue persons in distress without regard for their nationality, status, or circumstances is pragmatically viable only when states honour their duty to enable the speedy disembarkation of those rescued – a duty that Italy (and perhaps also Malta) breached in this case.

But is it a victory for Italy, as the home secretary presumably meant to suggest? There is no doubt that Italy (and to a much greater extent, Greece) has shouldered more than its fair share of refugees arriving to seek protection in Europe. Nor can it be doubted that Europe and the rest of the world have acted too slowly and undependably to share-out what is in principle a common responsibility to protect refugees, thus fueling frustration and even anger. The EU's absurd "Dublin Regulation" rule that allocates nearly all protection duties to the first country in which a refugee arrives is both unprincipled and cruel. So while nothing can justify Italy's flagrant breach of the duty to facilitate speedy disembarkation of those rescued, its determination to force a redistribution of responsibility is perhaps more comprehensible.

In truth, the real villain here is an outmoded system of implementing protection obligations under the UN's Refugee Convention. Under the *status quo*, whatever country a refugee reaches is the one and only country that has protection obligations to that refugee. Accidents of geography, rather than any principled metric, determine which states are obliged to carry the burdens for implementing what is in theory a universal duty to protect refugees. That approach has led to some 60% of the world's refugees being left in the hands of just 10, mostly very poor, countries – with the rest of us giving them only bits of

charity and offering resettlement to only about 1% of the refugees they admit. There is therefore a perverse incentive built into the system to turn refugees away – as this week's horrific events in the Mediterranean make clear.

The UN's "global compact" process was supposed to end this prisoner's dilemma. Yet under the proposal now offered by UNHCR (the UN's global refugee agency), little will change. The agency suggests only that states agree to attempt to hash out possible voluntary relief to frontline states on a case-by-case basis – leaving those states confronted with the arrival of refugees in the truly horrible bind of choosing between waiting and hoping for solidarity (that may or may not come) and turning refugees away. For the UN to have failed to put forward a plan for binding and immediate sharing of financial burdens and human responsibilities is ethically inexcusable.

So if Italy is angry, it should turn its anger toward those responsible for its dilemma – the EU for failing to move beyond the manifestly wrong-headed "first country of arrival rule," and the UN for failing to offer leadership on a serious system to share refugee burdens and responsibilities. But taking out its anger on sick and exhausted refugees as it did this week was not a victory for anyone.

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